



## CITY OF HAYWARD AGENDA REPORT

Planning Commission

Meeting Date 05/08/03

Agenda Item 3

**TO:** Planning Commission

**FROM:** Richard E. Patenaude, Principal Planner

**SUBJECTS:** Modification of UP 00-160-14 – Use Permit for the Construction of a 2,476-Square-Foot Carl's Jr. Restaurant with a Drive-Thru Window – Initiated by the Planning Director

Appeal from By the Bay Investments of Planning Director's Denial of PL-2002-0172 – Use Permit Application to Allow Required Parking for Carl's Jr. Restaurant on an Adjacent Parcel

The Project Is Located at 28000 Mission Boulevard at Webster Street in the General Commercial (CG) District – Big "O" Tires, Inc. (Owners)

### **RECOMMENDATION:**

Staff recommends that the Planning Commission rely on the previously-adopted environmental documents and:

- 1) modify UP 00-160-14 for construction of a restaurant with a drive-thru window, subject to the attached findings and conditions of approval; and
- 2) deny the appeal and uphold the Planning Director's denial of PL-2002-0172 to allow required parking for the restaurant on an adjacent parcel subject to the attached findings.

### **DISCUSSION:**

#### Background

The Planning Commission, on July 13, 2000, approved Conditional Use Permit applications for a Big "O" Tires auto service center and a fast-food restaurant with a drive-thru window, and a Site Plan Review application for an AutoZone retail auto parts store. The projects were interrelated in that the three buildings shared a common architectural style, vehicular circulation, parking and landscaping, and the environmental documents address the projects as a cohesive development. Due to inactivity, the Planning Commission revoked the Conditional Use Permit for Big "O" and the Site Plan Review for AutoZone on April 24, 2003.

Carl's Jr., the operator of the proposed fast-food restaurant, applied for a building permit on April 25, 2001, and this permit is still active. However, the building permit has not been issued because the restaurant cannot provide the required number of parking spaces on its parcel.

### Modification of the Conditional Use Permit

The Planning Director has initiated a request to modify the original Conditional Use Permit for the Carl's Jr. restaurant. Although the restaurant has an approved use permit and an active building permit, the Planning Commission may modify a conditional use permit to ensure that the development remains compliant with the required findings. In this case, the change from a jointly planned development to a stand-alone project on a single lot calls for such a modification.

The Planning Commission approved the use permit for the restaurant along with the permits for Big "O" and AutoZone subject to a finding that the projects are in harmony with applicable City policies as well as the intent and purpose of the zoning district in that the use will be compatible with adjacent commercial and residential activities. Since that time, circumstances have changed on the "interrelated" project in that there are no plans to develop the two southernmost parcels according to the plan reviewed by either the Planning Commission or the City Council Commercial Center Improvement Committee (June 19, 2000). The expectations were that the design of these projects would set a precedent for new development and redevelopment along the Mission Boulevard corridor with consistent architecture and landscape. There is no longer any assurance that the findings that the individual projects are in harmony with applicable City policies could be made.

There is not now any development plan for the Big "O" site, and the new owner of the AutoZone site has submitted a site plan review application for a hotel. Additionally, this drive-thru restaurant site was permitted to be on a 22,997-square-foot site because of its interrelationship with the other two parcels; the Zoning Ordinance requires a minimum site of 25,000 square feet for drive-thru restaurants to accommodate the required parking and the drive-thru lane and its stacking. Therefore, the drive-thru restaurant can no longer meet this minimum standard.

Staff recommends that the Conditional Use Permit for the restaurant be modified such that all required parking be provided on its parcel to cause the restaurant property to be self-supporting. To reduce the parking demand, the size of the restaurant would have to be reduced by as much as 1,600 square feet or 24 seats would have to be eliminated, or a combination of reductions in floor area and seating. Carl's Jr. also has the option to obtain additional land from the adjacent Big "O" property. The restaurant parking, for the project as proposed, then could be contained on its own parcel. Inadequate parking could impact surrounding properties and streets. Patrons of the restaurant would have to park on the street when the parking lot is full, which could impact traffic movements on Webster Street and could spread the effect of this commercial use into the residential area to the east. The modification would require changes to the site and building plans, which would be subject to review and approval by the Planning Director. If the modification were not approved, additional parking (9 spaces) would have to be approved off site.

### Appeal of Denial of Administrative Use Permit

The developer of the restaurant has indicated a preference toward providing off-site parking rather than agreeing to a modification of the CUP. Under the Parking Regulations, the restaurant

is required to provide 24 parking spaces on its site; only 15 can be provided as the project is currently designed even though the applicant eliminated all outdoor dining in order to reduce its parking liability. To compensate for the difference, Carl's Jr. applied for an Administrative Use Permit to place 9 parking spaces on the adjacent parcel, previously planned for the Big "O" auto service center. Under the original "interrelated" project, the three projects were able to share the parking spaces across property lines as certain uses, especially Big "O", could provide more parking on its site than required. The Planning Director denied the AUP application because the off-site parking lot would place a burden on the adjacent Big "O" property by limiting the potential use of the property and it would continue the existing pattern of disjointed development along Mission Boulevard. The applicant appealed this decision to the Planning Commission.

Should the Planning Commission approve the modification of the Conditional Use Permit to require the restaurant to provide all of its parking on its parcel, it should then uphold the Planning Director's denial of the Administrative Use Permit to allow parking on the adjacent Big "O" property. The modification of the CUP would require all the parking to be on the restaurant site, and the AUP would be rendered unnecessary.

Should the Planning Commission not modify the Conditional Use Permit, the implementation measure to move this project forward would be the approval of the Administrative Use Permit to allow the off-site parking lot containing at least 9 spaces. The AUP would need to be returned to the Commission for review and approval of findings and conditions of approval. Conditions would likely require the landscaping of the entire Big "O" property as well as completion of all public street improvements along its frontage.

Although the CG District allows for parking lots with approval of an AUP, the construction of a small parking lot of 9 spaces would result in the use of the central property that does not reflect what was envisioned by the Planning Commission, the CCCCIC and the Mission-Garin Neighborhood Plan. Additionally, since the AUP for parking is a separate permit from the Carl's Jr. Conditional Use Permit, the parking lot could still be installed and used by Big "O" or a future owner even if Carl's Jr. ceases operation. There is no plan for development of the adjacent Big "O" property and it cannot be known to what extent the placement of required parking for Carl's Jr. will eventually interfere with plans for development of the adjacent parcel. We do know that the use of 9 parking spaces on this property for Carl's Jr. reduces the building area of a future retailer by 2,000 square feet or a sit-down restaurant by as much as 27 seats.

## **CONCLUSION:**


Modification of the Conditional Use Permit, and the appeal of the Planning Director's denial of the AUP, for Carl's Jr. require Planning Commission action. The Carl's Jr. restaurant project was considered consistent with both the General Policies Plan and the Mission-Garin Neighborhood Plan when design as an interrelated project with Big "O" and AutoZone; this finding may not be applicable for the individual components. By not modifying the CUP, parking and traffic impacts of this project would be spread out onto surrounding streets and properties. Partial development of the Big "O" parcel with a parking lot would limit potential development and also continue the appearance of disjointed development along the Mission

Boulevard frontage. Therefore, staff recommends that the Planning Commission modify the conditional use permit for the restaurant and uphold the denial of the administrative use permit for a parking lot on the adjacent Big "O" property.


#### **PUBLIC NOTICE:**

On April 28, 2003, a Notice of Public Hearing was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. Notice was also provided to the South Hayward Parish, the South Hayward Neighborhood Group, the Alta Vista Improvement Committee, and the Mission-Garin Neighborhood Task Force. No public comment has been received regarding this matter.

Prepared by:

  
Richard E. Patenaude, AICP  
Principal Planner

Recommended by:

  
Dyana Anderly, AICP  
Planning Manager

#### **Attachments:**

- A. Area Map
  - B. Findings (2)
  - C. Revised Conditions of Approval for UP 00-160-14
  - D. Staff Report for UP 99-160-18/UP 00-160-14/SPR 00-130-09
- Approved Site Plan  
Plans for Parking Lot

**CITY OF HAYWARD  
PLANNING DIVISION  
May 8, 2003**

**MODIFICATION OF CONDITIONAL USE PERMIT 00-160-14 – INITIATED BY THE  
PLANNING DIRECTOR / BIG “O” TIRES (OWNER)– To Require On-Site Location of All  
Required Parking**

**The Property Is Located at 28030 Mission Boulevard between Webster and Hancock Streets in the  
CG (General Commercial) District**

**FINDINGS FOR MODIFICATION**

- A. The proposed modification to Conditional Use Permit No. 00-160-14, for a Carl's Jr. Restaurant with a drive-thru window, will have no significant impact on the environment, cumulative or otherwise. This project has previously been assessed under the provisions of California Environmental Quality Act and a Negative Declaration was issued. There have been no changes that would require additional environmental review.
- B. The Planning Commission approved the use permit for the restaurant along with the permits for Big “O” and AutoZone subject to a finding that the projects are in harmony with applicable City policies as well as the intent and purpose of the zoning district in that the use will be compatible with adjacent commercial and residential activities. Since that time, circumstances have changed on the “interrelated” project in that there are no plans to develop the two southernmost parcels according to the plan reviewed by either the Planning Commission or the City Council Commercial Center Improvement Committee (June 19, 2000). The change from a jointly planned development to a stand-alone project on a single lot calls for such a modification.
- C. The drive-thru restaurant site was permitted to be on a 22,997-square-foot site because of its interrelationship with the other two parcels; the Zoning Ordinance requires a minimum site of 25,000 square feet for drive-thru restaurants to accommodate the required parking and the drive-thru lane and its stacking. Therefore, the drive-thru restaurant can no longer meet this minimum standard. Inadequate parking could impact surrounding properties and streets. Patrons of the restaurant would have to park on the street when the parking lot is full, which could impact traffic movements on Webster Street and could spread the effect of this commercial use into the residential area to the east. The modification to require all required parking to be located on site would alleviate these impacts.

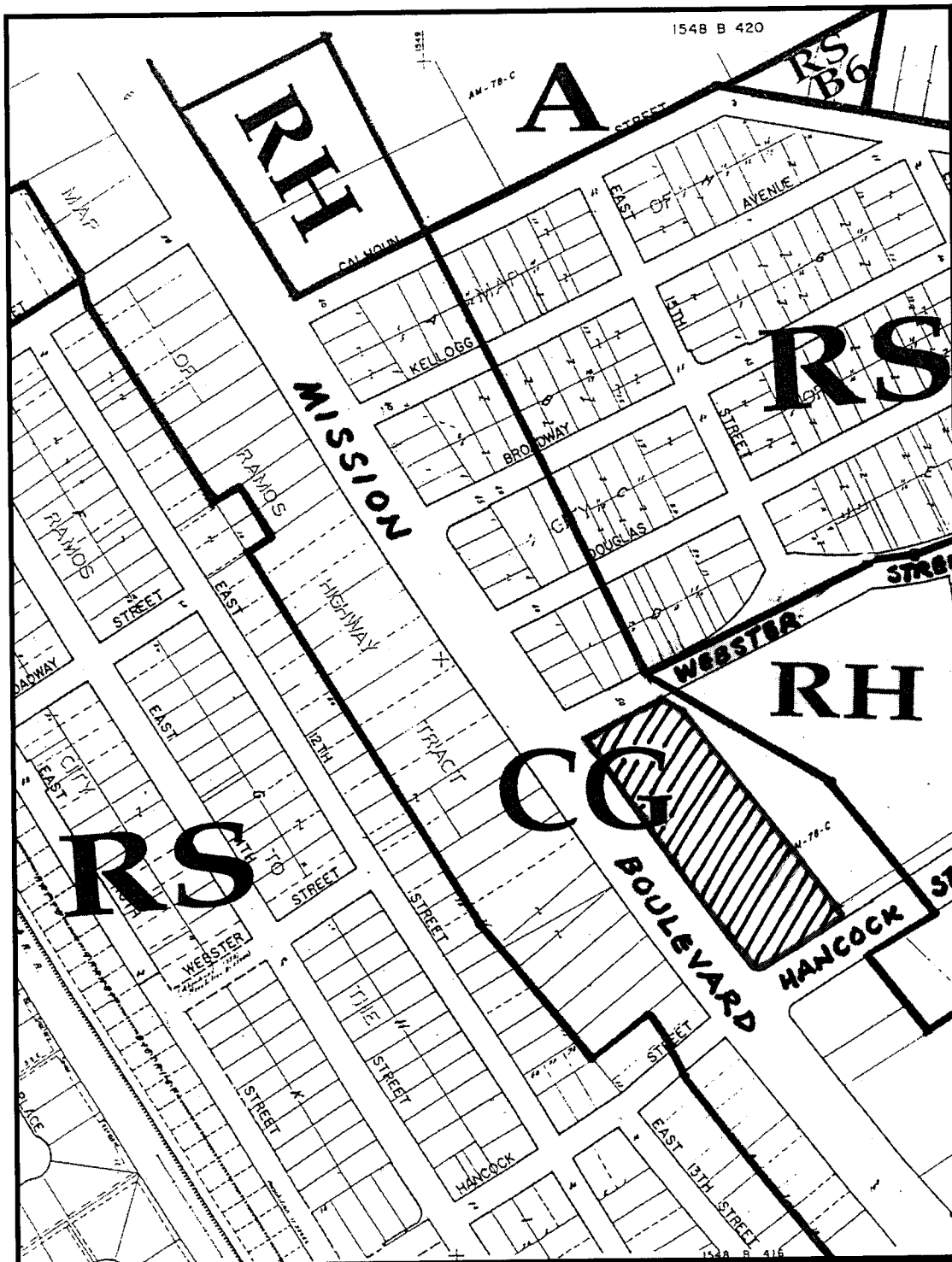
**CITY OF HAYWARD  
PLANNING DIVISION  
May 8, 2003**

**ADMINISTRATIVE USE PERMIT APPLICATION NO. PL 2002-0172 – BY THE BAY INVESTMENTS (APPLICANT) / BIG “O” TIRES (OWNER)– Request to Provide Parking for a Proposed Carl’s Jr. Restaurant on an Adjacent Lot**

**The Property Is Located at 28030 Mission Boulevard between Webster and Hancock Streets in the CG (General Commercial) District**

**FINDINGS FOR DENIAL**

- A. The project proposed by Administrative Use Permit Application No. PL-2002-0172, a parking lot for a proposed Carl’s Jr. Restaurant, will have no significant impact on the environment, cumulative or otherwise. This project is exempt from the provisions of California Environmental Quality Act pursuant to Section 15304, Minor Alterations to Land.
- B. The parking lot is not desirable for the public convenience or welfare in that the parking lot will create an undesirable vacant “remainder” piece of property between it and Mission Boulevard that will not comply with the City’s Design Guidelines and that cannot be properly planned for a future use. Furthermore, the parking for the restaurant, as required by the Parking Regulations, must be fully contained on the restaurant’s parcel, negating the need for the requested parking lot.
- C. The parking lot will impair the character and integrity of the General Commercial District and the surrounding area in that cohesive planning for this block of land is not possible without knowledge of the uses proposed for the adjacent properties and without review of the plans for such proposed projects; the approval of parking for the restaurant may limit the potential use(s) of the adjacent properties in that it commits the use of a minimum area of land.
- D. The parking lot will be detrimental to the public health, safety or general welfare in that it will be visible from Mission Boulevard. The City’s Design Guidelines provide for screening of parking lots with both structures and landscaping; a vacant parcel of land will be left between the parking lot and Mission Boulevard, which may not be able to be sufficiently landscaped to screen the parking lot. The project also creates an undesirable vacant “remainder” piece of property between it and Mission Boulevard that cannot be properly planned for a future use.
- E. The parking lot is not in harmony with applicable City policies and the intent and purpose of the General Commercial District in that it will be visible from Mission Boulevard and an undesirable vacant “remainder” piece of property between it and Mission Boulevard will result that cannot be properly planned for a future use.



### AREA MAP

UP 99-160-18 / UP 00-160-14 / SPR 00-130-09 ■ James Miller & Assoc.  
 (Applicant) / Big "O" Tires, Inc. (Owner) & Daniel Gibbs, CEI Engineering  
 Assoc. (Applicant) / AutoZone (Owner) ■ 28000 Mission Boulevard

ATTACHMENT A

**MODIFIED CONDITIONS OF APPROVAL**  
**UP 00-160-14**  
**Drive-Thru Restaurant – 28000 Mission Blvd.**  
**May 8, 2003**

**Planning**

General

1. This permit becomes void one year from the effective date of approval, unless prior to that time substantial continued progress has been made toward the establishment of the use or an extension of time is approved. A request for a one-year extension, approval of which is not guaranteed, must be submitted to the Planning Director at least 30 days prior to the above date.
2. All improvements indicated on the approved site plan and landscape plan, as amended by staff and these conditions of approval, and labeled "Exhibit A", shall be installed prior to authorization for gas or electric meter service. **Modifications to the site plan, building plans and landscape plan that are necessary in order to comply with these conditions are subject to review and approval by the Planning Director.**
3. Prior to issuance of a building permit, all building materials and colors, shall be consistent with those approved by the Planning Commission and approved by the Planning Director ~~to ensure consistency with the Big "O" and AutoZone projects.~~ Changes in building materials and colors shall be approved by the Planning Director. The entry of the restaurant shall be enhanced with a tower to mark its corner location. The drive-thru window shall be screened from street view by a combination of architectural treatments and landscaping.
4. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
5. Violation of these conditions is cause for revocation of this Use Permit, subject to a public hearing before the duly authorized reviewing body.
6. A copy of these conditions shall be posted alongside the necessary business licenses and shall be visible at all times to employees.



7. The owner shall maintain in good repair all building exteriors, fencing, parking surfaces, landscaping, lighting, drainage improvements, trash enclosures, signs, etc. The premises shall be kept clean, and the owner shall endeavor to see that no trash or litter originating from the subject property is deposited on neighboring properties. Employees shall be required daily to pick up trash or litter originating from the site within 300 feet of the perimeter of the property. Any graffiti painted on the property shall be painted out or removed within seven days of occurrence.

#### Parking

8. All parking stalls and maneuvering areas shall meet the minimum standards of the City Off-Street Parking Regulations. The parking stalls shall be striped and the compact stalls shall be clearly marked for such use. The project shall not exceed the maximum allowance of 30% compact spaces.
9. The restaurant requires one parking space for every three seats, including any outdoor dining area, **and one parking space per 200 square feet of gross floor area for all non-public areas. All required parking spaces shall be provided on the parcel containing the restaurant building.**
- ~~10. Prior to issuance of a building permit the owner shall record a reciprocal, permanent and non-exclusive ingress, egress and parking easement entered into with Big "O" and AutoZone. The easement shall be approved by the City Attorney and shall include the maintenance of on-site lighting, on-site paving and parking lot striping.~~
11. All raised concrete curbs, which lie between the side of a parking stall and a landscape planter, shall be widened to 18 inches to accommodate persons exiting their vehicles.
12. The pavement at all driveway entries, within 10 feet of the property line, shall be enhanced by use of decorative pavement materials such as colored, stamped concrete (bomanite) or other approved material.
13. Pedestrian crossings of the drive-thru lane shall be enhanced by use of decorative pavement materials such as colored, stamped concrete (bomanite) or other approved material.
14. Pedestrian walkways and circulation areas next to all buildings shall be raised no less than 6 inches in height above the finished parking lot or driveway pavement.

#### Landscape

15. Prior to the issuance of the first building permit, detailed landscaping and irrigation plans shall be prepared by a licensed landscape architect and submitted for review and approval by the City. Landscaping and irrigation plans shall comply with the City's *Water Efficient Landscape Ordinance*, General Commercial zoning district

requirements, and design and performance standards for commercial uses and drive-through restaurants.

16. One 24" box *Platanus 'Yarwood'* (Yarwood Sycamore) street tree is required for every 30 lineal feet of frontage on all streets. Trees shall be planted according to the City Standard Detail SD-122.
- ~~17. The planting design for Big O Tires, Auto Zone and the restaurant shall be coordinated so that the entire block is viewed as one project.~~
18. Landscaped areas adjoining drives and/or parking areas shall be separated by a 6" high class "B" Portland Cement concrete curb.
19. Masonry walls and trash enclosures shall be buffered with shrubs and vines. Vines shall be planted at a maximum spacing of 10 feet on center.
20. Parking lots shall include one 15-gallon tree for every six parking stalls. Parking lot trees shall be planted in tree wells or landscape medians located within the parking area. Parking rows shall be capped with a landscaped median. All tree wells and medians shall be a minimum of 5' wide measured inside the curbs. Parking and loading areas shall be screened from the street with shrubs or masonry. Where shrubs are used for screening, the type and spacing of shrubs shall create a continuous 30" high hedge within two years. Sprinkler heads and planting next to parking areas shall be placed such that 18 inches is maintained for car overhang. This area may be planted with low groundcover and sprinklers may be placed in line with the parking space divisions.
21. The type and spacing of shrubs and groundcovers shall ensure 80% coverage within two years. No more than 25% of shrubs shall be under 5-gallons in size. Groundcovers may be planted from rooted cuttings where appropriate for the species.
22. Blank building walls shall be enhanced with vertical landscape elements such as, metal trellises with vines, tall shrubs and trees.
23. Landscaped areas along the street frontages shall include berms to create visual interest.
24. All above ground utilities, mechanical equipment and trash enclosures shall be screened from view with shrubs.
25. Planting on the slope at the rear of the property shall include shrubs and groundcovers to control erosion and a continuous tree planting. Trees shall be a minimum size of 15-gallons and planted 20 feet apart. Small tree species shall be used in order to protect views from the residences at the top of the slope.
- ~~26. The irrigation system for Big O Tires, Auto Zone and the restaurant shall be coordinated so that all plant materials are watered in the same manner. The system for~~

~~each individual parcel may be independent and connected to separate water meters. A reduced pressure backflow device shall be installed for each irrigation meter.~~

27. An automatic controller and rain sensor shall be installed for each irrigation system.
28. All trees shall be irrigated with flood bubblers on a separate valve.
29. Landscaping shall be maintained in a healthy, weed-free condition at all times. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within ten days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to Municipal Code.
30. Landscape improvements shall be installed according to the approved plans and a Certificate of Substantial Completion, and an Irrigation Schedule shall be submitted prior to the City's final inspection for issuance of a Certificate of Occupancy.
31. The drive-through area shall be screened from the street with a low wall ~~to match the wall in front of Big O Tires,~~ and an arbor planted with vines **subject to approval of the Planning Director.**
32. ~~A landscape and general maintenance agreement shall be entered into with AutoZone and Big "O" and recorded prior to issuance of any building permit. Such agreement shall address the common maintenance of the landscape areas and the parking lot and its fixtures, as well as litter pick-up. Such agreement shall be approved by the City Attorney.~~

#### Other

33. The drive-thru window shall be screened from view from the street using an architectural treatment consistent with the architecture of the primary structure to be approved by the Planning Director.
34. Exterior lighting shall be designed by a qualified illumination engineer and shall be planned for, and installed and maintained within the parking areas, driveways, loading areas, project entry points and pedestrian walkways. Exterior lighting shall not provide glare to motorists, nor spill onto nearby properties or up into the sky. The fixtures shall be designed to keep the light from spilling onto adjacent properties. Wall-mounted light fixtures shall not be mounted greater than 8 feet high. Within the parking lot, the minimum requirement is 1-foot candle of light across the entire surface. Luminaires shall be standard or modified box down light with a dark bronze or other approved finish on a maximum 18-foot pole unless otherwise approved by

the Planning Director. The lighting, and its related photometric, plan shall be reviewed and approved by the Planning Director.

35. Mechanical equipment, such as air conditioners and solar collectors, shall be prohibited on the roof unless screening is included in the design of the building(s). Any television or satellite reception antennae shall be fully screened from view.
36. A bicycle rack, accommodating at least five bicycles, shall be provided at a location on the restaurant site to be approved by the planning Director.
37. No outside storage of materials, crates, boxes, etc. shall be permitted on the subject property except as specifically provided for in the trash enclosure.
38. No vending machines or other goods shall be displayed or sold outside the building except for newspaper racks. Public telephones shall be located only within the building.
39. Two decorative trash receptacles shall be placed at each entrance to the stores. Receptacles shall be a decorative, pre-cast type with a self-closing metal lid.
40. Loud speakers shall not be audible from the adjacent residential property.
41. The hours of operation of the store shall be limited to 7:00 a.m. to 11:00 p.m. Sunday, 6:30 a.m. to 11:00 p.m. Monday thru Thursday, and 6:30 a.m. to 1:00 a.m. Friday, and 7:00 a.m. to 1:00 a.m. Saturday.
42. Prior to occupancy and the installation of any signs, the applicant shall submit a Sign Permit Application to the Planning Director for review and approval, subject to the following:
  - a. compliance with the City of Hayward Sign Regulations;
  - b. one monument sign may be permitted not to exceed 10 feet in height and 36 square feet per face;
  - c. the base and framing of any freestanding/monument sign shall reflect the architectural design, colors and materials of the building;
  - d. two wall signs may be permitted which shall use individual channel letters not to exceed 18 inches in height if a monument sign is used; three wall signs may be permitted if a monument sign is not used;
  - e. logos may be used as part of the total permitted wall sign area but may not exceed 24 inches in height;
  - f. the menu board may not be visible from the street;
  - g. directional signs shall not exceed 6 sq.ft. in area per face and 3 feet in height; and
  - h. the applicant/business operator shall not display any illegal banner signs, portable signs or other illegal signs on the property.
43. Prior to occupancy, the developer shall pay the appropriate Supplemental Building Construction & Improvement Tax.

## Engineering/Transportation

44. Prior to the connection of utilities the developer shall install curb, gutter, a ten foot-wide sidewalk abutting the curb and tie-in paving across the Mission Blvd. property frontage. These improvements shall include the installation of electroliers along the Mission Boulevard and Webster Street frontages as determined by the City Transportation Manager. All work along within the Mission Boulevard right-of-way shall require a CalTrans permit.
- ~~45. The driveway on Mission Boulevard shall be right turn in/right turn out only. The Site Plan shall clearly indicate the use of this driveway by adding right turn arrows. All proposed driveways shall conform to Standard Detail SD-110, sheet 1 of 2.~~
46. Prior to connection of utilities the developer shall remove and replace the broken sidewalk on Webster Street as determined by the City Engineer.
47. All retaining walls shall be reinforced concrete.
48. Prior to issuance of a building permit a site drainage plan shall submitted that meets the approval of the City Engineer and the Alameda County Flood Control District.
49. All on-site storm drain inlets shall be provided with fossil filter or approved equal. The design, location, maintenance requirements and maintenance schedule for any storm water quality treatment structural controls shall be submitted to the City Engineer for review and approval prior to the issuance of a building permit.
50. The minimum thickness of asphalt concrete pavement shall be 3 inches and shall be compacted to relative compaction of not less than 95 percent.
51. Trench backfill materials shall be class B-1 bedding (SD-310) unless otherwise noted.
52. Prior to the commencement of any clearing, grading or excavation resulting in a land disturbance of five acres or more, the developer shall submit evidence to the City that a Notice of Intent (NOI) has been submitted to the State Water Resources Control Board.
53. Maintain a six feet lateral distance between sanitary sewer laterals and city water services. Water mains shall have a ten feet lateral separation from the sanitary sewer main. Water meters shall be a minimum of two feet clear of top of driveway flares.
54. This proposed project has been considered as part of a larger development also including a retail auto parts store and a fast food restaurant. A traffic study was prepared for that proposed development. ("Hayward Big O Tire Center – Traffic Impact Study," PHA Transportation Consultants, Final Report, January 2000.) One

of the conclusions and recommendations from this study was that a traffic signal be installed at the intersection of Mission Boulevard and Hancock Street. Prior to the issuance of a building permit the developer shall deposit with the City of Hayward their proportionate share of the cost for the design and construction of this traffic signal. The money shall be deposited into an interest bearing account until it is used to cover the signal cost.

55. The proposed driveways shall conform to City standard detail SD-110, sheet 1 of 2.
56. The drive-thru lane shall be designed to minimize the possibility of queuing conflicts with the street. It shall have a capacity for at least 8 vehicles (at 20 feet per vehicle) from the drive-thru lane entry to the pick-up window and the order board shall be moved further up the drive-thru lane at a distance of one car length.

## **Fire Prevention**

### Water Supply

57. A water supply will be required in the rear access/driveway/parking lot of the site if the access is hampered by the screen wall/landscaping along Mission Boulevard. This requirement will be for possibly two new fire hydrants, one at each driveway entrance on Webster and Hancock Streets.

### Building Construction/Fire Protection

58. The building occupancy classification is "A-3". This building shall meet the requirements of the 1997 Uniform Fire Code, Article 25, to include the following:
  - a. Exiting and exit signage shall be installed per the California Building Code. All exit doors leading to the exterior shall have panic hardware.
  - b. Posting of occupant load signage.
  - c. Decorative materials shall be flame resistive. Certificate of flame resistive treatment required prior to final of building permit.
  - d. Aisles shall meet minimum widths as per the fire code.
  - e. An annual places-of-assembly permit is required prior to tenant occupancy.
59. All commercial cooking appliances shall have fire protection. Separate plans and permits are to be submitted to this office for review of the hood/duct fire protection system(s).
60. Minimum 2A:10BC type fire extinguishers are required throughout the restaurant. A minimum 40:BC type fire extinguisher is required in the kitchen area where cooking is occurring.
61. Provide a minimum 6" address on the building so as to be visible from the street.

62. The raised curbing at the project entries, at the end of parking bay island planters and along the driveways shall be painted red and signed for "no parking."

#### Hazardous Materials Issues

63. Submit a copy of the "Phase I Environmental Assessment" for the project site along with any other additional documentation pertaining to possible contamination from Hazardous Materials.

#### **Solid Waste**

64. The applicant must clearly indicate on a site plan the proposed location(s), number and type of refuse and recycling containers and dimensions of each enclosure for trash and recyclables on a site plan. The space provided for the storage of recyclables must be the same size or larger as that provided for trash.
65. The trash enclosures shall be screened by a decorative 6-foot-high masonry wall with a solid, decorative metal access gate. The structure shall incorporate design elements that reflect the architecture of the primary building. The trash enclosure for the restaurant must be completely covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge into the storm drain system. Drains shall connect to a collection system approved by the City Engineer.
66. A 6-inch wide curb or parking bumper must be provided along the interior perimeter of the enclosure walls to protect them from damage by the dumpster.
67. A 6-inch wide parking bumper, at least 3 feet long, must also be placed between the dumpster and the recycling bins, in order to secure the refuse dumpster in its designated area. Concrete or recycled-content plastic bumpers are available.
68. A minimum space of 12 inches must be maintained between the dumpster and the walls of the enclosure and the recycling container to allow for maneuvering the dumpster.
69. The enclosure gates and hinges must be flush with the enclosure wall. The gates must open straight out, and the hinges and the gate must be flush with the enclosure wall, in order to allow adequate maneuverability of the dumpster in and out of the enclosure to service it.
70. The Applicant must ensure that construction and demolition debris is removed from the site in one of the following ways:
- a. removed by a licensed contractor as an incidental part of a total construction, remodeling, or demolition service offered by that contractor, rather than as a

- separately contracted or subcontracted hauling service using debris boxes or similar containers; or
- b. removed by the Applicant by directly loading the debris onto a fixed body vehicle and hauled directly to a disposal facility that holds all applicable permits; or
- c. removed by the City's franchised hauler, Waste Management of Alameda County. Call 510-537-5500 to arrange for delivery of containers with sufficient capacity to store construction and demolition materials to be landfilled.

## **Construction**

71. The project plans shall include storm water measures for the operation and maintenance of the project for the review and approval of the City Engineer prior to occupancy. The project plan shall identify Best Management Practices (BMPS) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into stormwater runoff.

Prior to issuance of a building permit, a drainage plan shall be submitted that meets the approval of the Planning Director, and shall include the following:

- a. That all storm water is conveyed into City of Hayward or Alameda County Flood Control District facilities.
  - b. Structural controls such as oil/water separator, sand filter or fossil filter or other approved devices per applicant's discretion, which accomplish the same, shall be installed to intercept and treat storm water prior to discharging to the storm drain system. The design, location, and a maintenance schedule shall be submitted to the City Engineer for review and approval prior to the issuance of a building permit.
  - c. Erosion control measures to prevent soil, dirt and debris from entering the storm drain system during construction, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook.
  - d. The labeling of all on-site storm drain inlets in the shopping center with "No Dumping - Drains to Bay," using approved methods approved by the City.
  - e. The cleaning of all storm drains in the shopping center at least once a year immediately prior to the rainy season (October 15th). The City Engineer may require additional cleaning.
  - f. No storm water shall be discharged to the sanitary sewer without a Wastewater Discharge Permit, which will be issued only if there is no feasible alternative. This means that if washing takes place in the trash area, the wash water shall be discharged to the sanitary sewer. If this area is covered and protected from storm water runoff, a permit is not necessary.
  - g. Drains in any wash or process area shall not discharge to the storm drain system. Drains should connect to an approved collection system. The collection system is subject to the review and approval of the City Engineer prior to the issuance of a building permit.
72. The National Pollution Discharge Elimination System (NPDES) standards shall be met. A Notice of Intent permit is required from the Regional Water Quality Control Board



prior to the start of any grading. The applicant shall submit a construction Best Management Practice (BMP) program for review and approval by the City prior to the issuance of any building or grading permits.

These BMPs shall be implemented by the general contractor and all subcontractors and suppliers of material and equipment. Construction site cleanup and control of construction debris shall also be addressed in this program. The applicant is responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop work order. The NPDES program shall include the following items:

- a. Gather all construction debris on a regular basis and place them in a dumpster or other container, which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution.
  - b. Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work.
  - c. Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping.
  - d. Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season (October 1 5), 2) site dewatering activities, or 3) street washing activities, 4) saw cutting asphalt or concrete, in order to retain any debris or dirt flowing into the City storm drain system as necessary. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash.
  - e. Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the project site that have the potential for being discharged to the storm drain system through being windblown or in the event of a material spill.
  - f. Never clean machinery, tools, brushes, etc. or rinse containers into a street, gutter, storm drain or stream.
73. Ensure that concrete/gunite supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or drains.
74. Construction noise from the development of this site shall adhere to standard restrictions on hours and days of operation as specified in the City of Hayward Municipal Code, Article 1, Section 4.103(2).
75. Water Pollution Source Control requirements shall include but not be limited to the following:
- a. No polluted waters from HVAC units shall be discharged to the storm drain via roof drains. Uncontaminated condensate is acceptable for storm drain discharge.

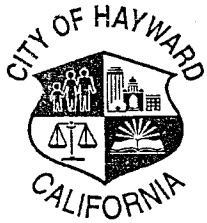
- b. All wastewater and washing operations shall be discharged to the sanitary sewer and not the storm drain, including mat cleaning and any washing of the trash area.
- c. The sanitary sewer discharge from this facility shall be in compliance with all wastewater discharge regulations, prohibitions and limitations to discharge, including the 300-milligram per liter oil and grease limit.
- d. Materials, gasoline spill, oil spill, heavy stains, radiator fluid, litter, etc. shall be picked-up by dry methods and sweeping so as not to pollute stormwater runoff. All discharges and connections shall require approval from Water Pollution Source Control.

76. The minimum thickness of asphalt concrete pavement shall be 3 inches and shall be compacted to relative compaction of not less than 95 percent.

### **Police**

77. All applicable requirements of the Security Ordinance (No. 90-26 C.S.) shall be met.

78. Management of the individual businesses shall take all necessary steps to assure the orderly conduct of employees, patrons and visitors on the premises.



## CITY OF HAYWARD AGENDA REPORT

Planning Commission

Meeting Date 07/13/00

Agenda Item 2

**TO:** Planning Commission

**FROM:** Richard E. Patenaude, Associate Planner

**SUBJECTS:** UP 99-160-18 – James Miller & Assoc. (Applicant) / Big “O” Tires, Inc. (Owners): Use Permit Application for the Construction of a 5,163-Square-Foot Big “O” Tires Auto Service Center;

UP 00-160-14 – James Miller & Assoc. (Applicant) / Big “O” Tires, Inc. (Owners): Use Permit Application for the Construction of a 2,476-Square-Foot El Pollo Loco Restaurant with a Drive-Thru Window; and

SPR 00-130-09 – Daniel Gibbs, CEI Engineering Assoc. (Applicant) / AutoZone (Owners): Site Plan Review Application for the Construction of a 5,400-Square-Foot AutoZone Retail Auto Parts Store

The Projects Are Located at 28000 Mission Blvd. between Webster and Hancock Streets on Three Lots Totaling Approx. 1.9 Acres

### RECOMMENDATION:

Staff recommends that the Planning Commission take separate actions to:

- 1) adopt the Negative Declaration;
- 2) approve UP 99-160-18 for construction of a 5,163-square-foot Big “O” Tires auto service center subject to the attached findings and conditions of approval;
- 3) approve UP 00-160-14 for construction of a 2,476-square-foot El Pollo Loco Restaurant with a drive-thru window subject to the attached findings and conditions of approval; and
- 4) approve SPR 00-130-09 for construction of a 5,400-square-foot AutoZone retail auto parts store subject to the attached findings and conditions of approval.

### BACKGROUND:

The City has received Conditional Use Permit applications for a Big “O” Tires auto service center and an El Pollo Loco Restaurant with a drive-thru window, and a Site Plan Review application for an AutoZone retail auto parts store. The projects are adjacent and have been designed to share vehicular access and parking lots. Although the three applications require

separate action by the Planning Commission, staff recommends that the Commission review the applications together because of their planned interrelationship.

### Setting

The vacant site is divided into three parcels, one for each of the proposed tenants. The subject properties are located along a section of Mission Boulevard that is characterized by a mixture of commercial uses and services (including vehicle sales and service, restaurants, churches, grocery and convenience stores, and building and home improvement supplies) in the CG "General Commercial" Zone District. The adjacent property to the east contains an apartment project located on land 25 feet and more above the subject property. An 8-foot decorative sound wall, with a landscape buffer, will be installed on the easterly property line between the subject property and the apartments.

The subject properties are designated *CHDR* "Commercial/High-Density Residential" by the General Policies Plan Map. The Mission-Garin Neighborhood Plan provides the option for properties that are so designated to be developed with either commercial or high-density residential uses as appropriate. The Neighborhood Plan also encourages automotive-related uses along Mission Boulevard north of its potential intersection with the future Route 238. The properties are located slightly more than one-half mile from the South Hayward BART Station, which places them beyond the traditional walking distance of one-quarter mile for transit-oriented development.

The Zoning Ordinance requires that drive-thru restaurants be separated by a distance of one-half mile (2640 feet). The nearest drive-thru restaurants to the subject site are Burger King on Mission Boulevard at Industrial Parkway, and McDonalds on Mission Boulevard and south of Harder Road (both approximately 4500 feet from the subject site).

### Project Description

The project uses a Mission architectural style, with customized features added to accentuate the individual buildings. This style ties in well with the thematic architecture required in the Mission Corridor Special Design District to the north and along the Tennyson Road corridor (Tennyson-Alquire Neighborhood Plan) to the southwest.

The Big "O" Tires building is designed such that the primary service bays face the interior of the property and not Mission Boulevard. Only the two "express" bays are oriented toward the street but are set back under a canopy. A screen wall and landscaping is proposed to shield these bays from Mission Boulevard. The screen wall, however, is proposed to be 6 feet in height; staff feels that this is excessive and should be reduced to the standard 30-inch height. The combination of landscaping, berms and a screen wall should be adequate to shield the view of the bays.

Each of the buildings is designed with distinct design elements but contain general features such as belt courses, towers, columns and concrete roof tiles, which tie them together. The Big "O"

Tires and AutoZone buildings contain multi-part facades including material and pattern changes. Each building contains a significant foundational belt course; other belt courses are formed by decorative tiles or changes in patterns. Elevations are articulated with building offsets and with canopies and towers supported by columns. Cornice bands are used to cap off the walls. Entrances are highlighted by "towers" or raised elements, and they provide shelter from inclement weather.

The El Pollo Loco building is the least articulated at this point, but could easily be enhanced consistent with the other two buildings. The drive-thru for El Pollo Loco also must be screened from Mission Boulevard. Final plans would be required to show enhanced articulation and the drive-thru screening.

Most entrances to the buildings remain oriented to the parking lot along the easterly side of the property, toward the apartments on the adjacent property and away from Mission Boulevard. However, the buildings have been redesigned to provide an increased level of articulation and activity along the street. The buildings vary in their setback from the street. The storefront of the Big "O" showroom faces the street. The AutoZone building uses false windows, along with a true storefront window, to create a more pleasing appearance from Mission Boulevard. The subject portion of Mission Boulevard is an auto-oriented, rather than pedestrian, corridor, and, therefore, the level of orientation to the street is appropriate.

The parking lot is shared by the subject three properties; mutual access and maintenance agreements will be required. Seventy-four (74) parking spaces are provided; a total of 67 spaces are required for the three uses.

The preliminary landscape plan includes buffer planting around the site with shrub masses and trees. Additional street trees will be required along all frontages. Vertical landscape elements should be included along long walls.

The sign program consists primarily of individual wall-mounted channel letters. El Pollo Loco also proposes to use a can sign over its primary entrance facing Webster Street. All signage for this center should be of a consistent type; staff recommends that individual wall-mounted letters be used throughout the project. Logos could be accommodated along with the individual letters.

#### **CCCCIC RECOMMENDATION:**

The City Council Commercial Center Improvement Committee (CCCCIC) has reviewed the subject projects on several occasions. At its meeting of June 19, 2000, the CCCCIC made the following comments:

- The Mission-Garin Neighborhood Plan recognizes a need to upgrade the appearance of the area, and the have revised the projects to upgrade the design. Staff was encouraged to maintain a high level of design for this site as it will set a precedent for new development and redevelopment along the Mission Boulevard corridor.

- The CCCCIC commented that the interface with Mission Boulevard is not ideal but recognized the site constraints. The applicants have articulated the buildings to provide a better street appearance appropriate to the auto-related orientation of Mission Boulevard. The Big "O" building has also been re-oriented such that most of the service bays are turned away from the street.
- The CCCCIC recommended that the buildings at the street intersections might be indicated by a stronger tower element. The applicants have articulated the buildings to provide stronger entries but may be able to strengthen the tower features.
- The CCCCIC recommended that colors and materials be consistent throughout the project. The Committee recommended that the drive-thru and the auto service bays be screened with a combination of architectural features, decorative walls and landscaped berms. Final plans will be required to ensure that colors are applied methodically and that appropriate screening is provided.

These comments have been reflected in the conditions of approval for each of the projects. The final plans will be subject to approval of the Planning Director to ensure that a high level of design is provided for this site.

#### **ENVIRONMENTAL REVIEW:**

As the primary entrances of all three buildings, including a large service entrance, face the apartments to the east, there was concern of a noise impact problem. The developer has provided a noise study report (by Parsons Engineering Science) that concludes that there will be no noise level from this project above the ambient level as long as Big "O" closes by 10:00 p.m. The two "express" bays, which also face the residential use to the east, are set below the line of sight of the residences and will be further screened by buffer landscaping at the property line. Roof-top equipment should be adequately screened by the parapets and roof elements.

PHA Transportation Consultants prepared a traffic study required by City staff. The study concludes that the proposed projects will not change the level of service of the Mission Boulevard intersections and will not create unacceptable traffic conditions within the area. However, the Mission Boulevard/Hancock Street intersection currently meets CalTrans traffic signal warrants based on accident experience. Because of the additional traffic created by the subject projects, the installation of a traffic signal at this intersection shall be required to eliminate an existing hazardous condition and to provide safe access for project traffic. This installation will be a separate project to be worked out between the City, CalTrans and affected property owners. The signal is scheduled for Fiscal Year 2000-2001.

Because the subject projects would not create any significant adverse environmental effects, staff recommends that a negative declaration be adopted.

## **PUBLIC NOTICE:**

Referral Notices were mailed, upon receipt of the applications, to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. Notice was also provided to the South Hayward Parish, the South Hayward Neighborhood Group, the Alta Vista Improvement Committee, and the Mission-Garin Neighborhood Task Force. The Referral Notice provided an opportunity for persons to comment on the project. There has been no public response.

On June 23, 2000, a Notice of Public Hearing for the Planning Commission meeting was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. Notice was also provided to the South Hayward Parish, the South Hayward Neighborhood Group, the Alta Vista Improvement Committee, and the Mission-Garin Neighborhood Task Force. Notice was also provided to the blind, aged and disabled communities, as required per Section 65091 of the Government Code, via the Senior Center, Community Resources for Independent Living, La Familia Counseling Service, and La Familia Developmental Disabilities Case Management.

## **CONCLUSION:**

The proposed project requires Planning Commission approval of Conditional Use Permits, including Site Plan Review, for Big "O" Tires and El Pollo Loco, and Site Plan Review for AutoZone. Repair services and drive-thru establishments require approval of a Conditional Use Permit in the CG "General Commercial" Zone District.

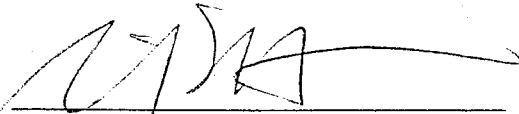
The applicant has made strides to bring the project into conformance with the *City of Hayward Design Guidelines* but the following items will have to be addressed during the permitting process:

- Staff recommends that the false windows on the AutoZone building be reworked so that the Mission Boulevard and Hancock Street façades have a more interesting street appearance, especially at night.
- The architectural details of the El Pollo Loco building will have to be consistent with the other two buildings.
- The primary and trim colors of all the buildings should be complementary. Colors and materials need to be consistent throughout the project.
- Screening of the drive-thru and the auto service bays will have to be accomplished through a combination of architectural treatments, decorative walls and landscaped berms.
- The parking areas need to comply with City standards, contain adequate landscaping, and include decorative paving at entries and transitions to break up the large amount of paving.

These items have been incorporated as conditions of approval.

In addition, the projects are consistent with both the General Policies Plan and the Mission-Garin Neighborhood Plan. Therefore, staff recommends that the Planning Commission adopt the Negative Declaration and approve the subject projects.

Prepared by:



Richard E. Patenaude  
Associate Planner

Recommended by:



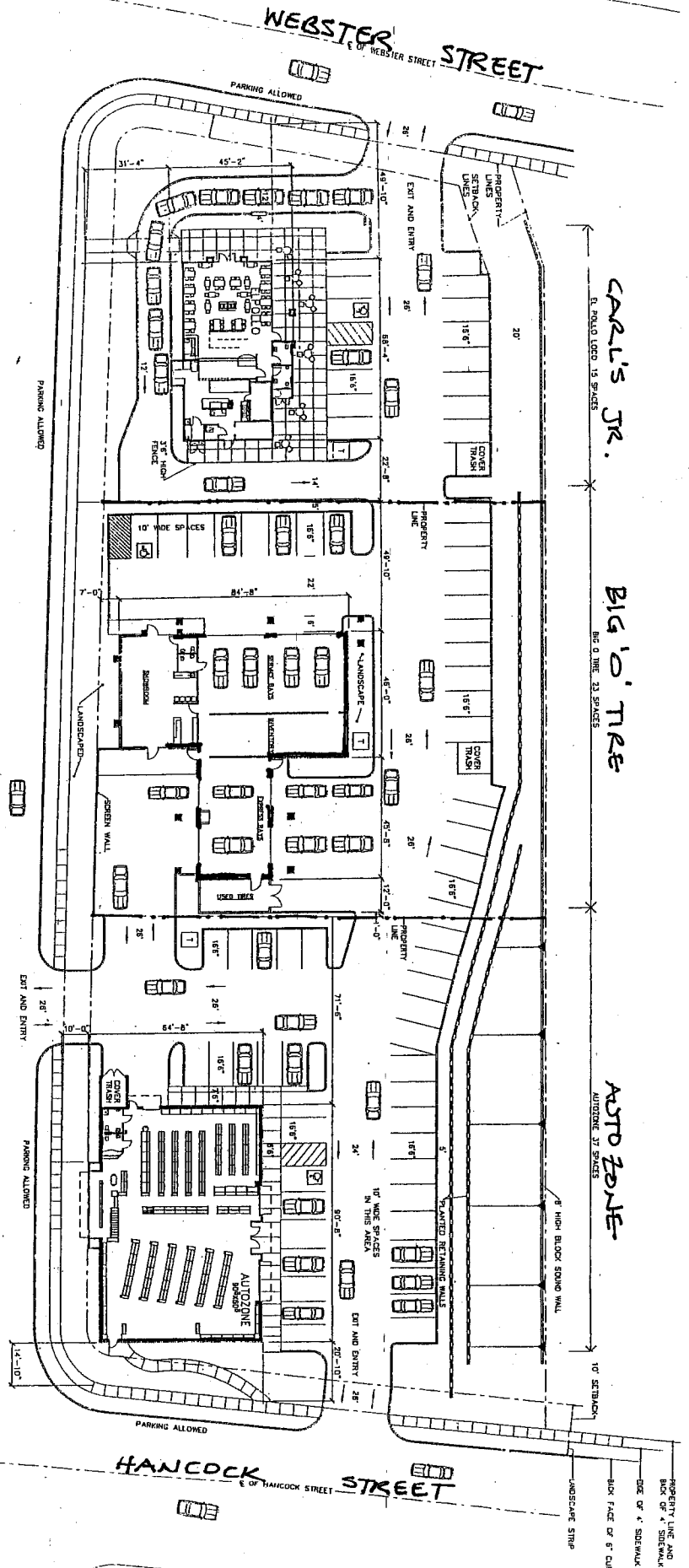
Dyana Anderly, AICP  
Planning Manager

Attachments:

- A. Area Map
- B. Findings (3)
- C. Conditions (3)  
Plans

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Report.doc





CONCEPT SITE PLAN



PLANNING DIRECTOR  
APPROVED  
INITIAL - RSP  
DATE - 7/24/00  
CITY OF HANNAH

CARL'S JR.

BIG O' TREE

AUTOZONE

HANCOCK STREET

WEBSTER STREET

MISSION

BLVD.

PROPERTY LINE AND  
BACK OF 4' SIDEWALK  
DOE OF 4' SIDEWALK  
DOE FACE OF 5' CURB  
LANDSCAPE STRIP

MISSION BOULEVARD

WEBSTER STREET

EX. CONCRETE

EX. PLANTER

SETBACK

STOP

SETBACK

CARPORT  
REST.  
RED'D. PARKING = 23 SPACES

STOP

COMPACT

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CARPORT

EXISTING VACANT LOT  
A.P.N. #78C-0626-07-03

PROPERTY LINE

9/12/02